

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMERICAN WHITEWATER, *et al.*,

Plaintiffs,

v.

ELECTRON HYDRO, LLC, *et al.*,

Defendants.

CASE NOS. C16-0047-JCC;  
C20-1864-JCC

ORDER

This matter comes before the Court *sua sponte*. There are two cases pending before the Court that pose the same question: whether Electron Hydro, LLC and related parties' operations and management of a dam on the Puyallup River violated the Endangered Species Act by unlawfully taking threatened and/or endangered species. *See Am. Whitewater, et al. v. Electron Hydro, LLC, et al.*, C16-0047-JCC; *Puyallup Tribe of Indians v. Electron Hydro, LLC, et al.*, C20-1864-JCC.

Given the similarity of issues and the parties' stipulated agreement to consolidation of these cases at the April 28, 2021 status conference, (*see* C16-0047-JCC, Dkt. No. 33; C20-1864-JCC, Dkt. No. 14), the Court concludes that consolidation is proper. The determination is based on a consideration of the interests of justice, expeditious results, conservation of resources, avoiding inconsistent results, and the potential of prejudice. *See Inv'rs Rsch. Co. v. U.S. Dist. Ct. for Cent. Dist. of Cal.*, 877 F.2d 777 (9th Cir. 1989); *see also Adams Apple, Inc. v. Central*

1 *Washington Bank*, 829 F.2d 1484, 1487 (9th Cir. 1987) (“[T]rial courts may consolidate cases  
2 *sua sponte*.”).

3 Accordingly, the Court hereby ORDERS that the following cases be consolidated:  
4 *American Whitewater, et al. v. Electron Hydro, LLC, et al.*, C16-0047-JCC and *Puyallup Tribe*  
5 *of Indians v. Electron Hydro, LLC, et al.*, C20-1864-JCC. All future filings shall bear the caption  
6 and case number of the first-filed case, *American Whitewater, et al. v. Electron Hydro, LLC, et*  
7 *al.*, C16-0047-JCC.

8 The Court DIRECTS the Clerk to administratively close the remaining case, *Puyallup*  
9 *Tribe of Indians v. Electron Hydro, LLC, et al.*, C20-1864-JCC.

10 The parties shall file all future documents related to either case in Case No. C16-0047-  
11 JCC. All future filings shall include the words “This Document Relates To:” in the caption,  
12 followed by either “C16-0047-JCC,” “C20-1864-JCC,” or “Both Cases.”

13 The Court VACATES the July 26, 2021 bench trial in *American Whitewater*, C16-0047-  
14 JCC, (Dkt. No. 29), and ORDERS that the parties comply with the following case management  
15 deadlines:

- 16 • Expert reports served by: August 20, 2021
- 17 • Rebuttal expert reports served by: September 20, 2021
- 18 • Discovery cut-off: October 29, 2021
- 19 • Dispositive motions due: November 19, 2021
- 20 • Bench trial set for: April 18, 2022

21 DATED this 28th day of April 2021.

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John C. Coughenour  
UNITED STATES DISTRICT JUDGE